IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	HANSEN *et al.*	Docket No.	366929-018US (396515)
Serial No.	10/776,934	Group Art Unit:	1635
Filed:	February 10, 2004	Confirmation No.	2105
For:	OLIGOMERIC COMPOUNDS FOR THE MODULATION OF SURVIVIN EXPRESSION	Examiner:	Kimberly Chong

STATEMENT UNDER 37 CFR § 1.705(b)(2)

VIA EFS-WEB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This statement is submitted in support of the "Application for Patent Term Adjustment Including Request for Reconsideration Under 37 CFR § 1.705(d)" for U.S. Patent No. 7,713,738, issued May 11, 2010.

The Patentees timely filed an application under 37 CFR § 1.705(b) on June 29, 2009, seeking reconsideration of the patent term adjustment noted in the Notice of Allowance for the above-referenced application. In a letter mailed subsequently by the Office of Petitions, on March 24, 2010, that application under Rule 705(b) was (*i*) dismissed in part, insofar as it related to an asserted miscalculation by the Office of a 4 Month Delay; and (*ii*) dismissed as premature, based on the fact that the patent had not yet issued when the application was filed.

At issuance, the Office recalculated the Patent Term Adjustment as 794 days. This application renews the June 29, 2009 application, requesting that Patentees be granted a minimum patent term adjustment of **1,060 days**.

The grounds asserted in the application dated June 29, 2009, the Patent Term Adjustment calculated by the Office at issuance, in view of *Wyethv. Kappos,* 591 F.3d 1364 (Fed. Cir. 2010), and the grounds asserted in this renewed application under 37 C.F.R. § 1.705(d) are summarized and compared in the following table:

application as set forth in 37 CFR § 1.704. The application is not subject to a terminal disclaimer.

A. 14-Month Delay, 4-Month Delay, and Issue Delay under 37 CFR §§ 1.702(a) and 1.703(a)

1. 14-Month Delay

Patentees are entitled to a period of patent term adjustment pursuant to 37 CFR §§ 1.702(a)(1) and 1.703(a)(1) ("14-Month Delay"). Patentees agree with the Office's calculation shown in Exhibit B that the 14 Month Delay is 101 days. Because the Office failed to mail an action under 35 U.S.C. §132 until July 20, 2005, Patentees are entitled to a period of patent term adjustment beginning on the day after the date that is 14 months after the date on which the above-referenced application was filed under 35 U.S.C. §111(a), *i.e.,* February 11, 2004, and ending on the date of mailing of an action under 35 U.S.C. §132, *i.e.,* July 20, 2005, or 101 days.

2. 4-Month Delay

Patentees are entitled to a period of patent term adjustment pursuant to 37 CFR §§ 1.702(a)(2) and 1.703(a)(2) ("4-Month Delay"). Patentees disagree with the Office's calculation shown in Exhibit B that the 4-Month Delay is 0 days. Patentees respectfully submit that the correct 4-Month Delay is **332 days**. The relevant facts are as follows:

1. On January 20, 2006, Applicants filed a reply under 37 CFR § 1.111 including a response to restriction requirement.

2. On September 19, 2006, the Office mailed a notice to comply with requirements for patent applications containing nucleotide sequence and/or amino acid sequence disclosures.

3. On March 15, 2007, Applicants filed a response to the notice to comply with requirements for patent applications containing nucleotide sequence and/or amino acid sequence disclosures.

4. On April 17, 2007, the Office mailed a non-final office action **in response to the January 20, 2006 response to restriction requirement**. *See* Exhibit C (cover page and office action summary from April 17, 2007)

In its PTA calculation, the Office mistakenly assumed that the April 17, 2007 office action was in response to Applicants' March 15, 2007 response to the notice to comply, and thus calculated the 4-Month Delay as 0 days.

Under 37 CFR § 1.702(a)(2), Patentees are entitled to a period of patent term adjustment if the Office fails to "[r]espond to a reply under 35 U.S.C. 132 . . . not later than four months after the date on which the reply was filed." The March 15, 2007 response by the Patentees is not "a reply under 35 U.S.C. 132" as set forth in § 1.702(a)(2) because the September 19, 2006 notice to which Patentees responded is not considered by the Office to be a communication under 35 U.S.C. § 132:

> "A written restriction requirement, a written election of species requirement, a requirement for information under § 1.105, an action under *Ex parte Quayle*, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132. Office notices and letters issued as part of the pre-examination processing of an application are not notices issued as a result of an examination conducted pursuant to 35 U.S.C. 131, and thus are not notifications under 35 U.S.C. 132. Examples of such notices are: . . . a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661)."

65 Fed. Reg. 56366, 56368 (Sept. 18, 2000).

Accordingly, Patentees' only "reply under 35 U.S.C. 132" was the January 20, 2006 response to restriction requirement. As unambiguously and correctly stated on its face, the Office's April 17, 2007 non-final office action responds to the reply under 35 U.S.C. 132 submitted by Patentees on January 20, 2006. *See* Exhibit C.

On page 2 of the March 24, 2010 letter from the Office of Petitions, the Office argues that the April 17, 2007 non-final office action addressed claims amended by the applicants' March 15, 2007 amendment:

> Applicants arguments have been carefully considered. A review of the application file history reveals that the non-final Office action mailed April 17, 2007, addressed claims amended by applicants with the filing of the March 15, 2007 amendment. As such, the non-final Office action was timely pursuant to 37 CFR 1.702(a)(2)[2].

Patentees disagree with the Office's reasoning. The only amendments made to the claims in Patentees' March 15, 2007 response was to add several sequence identifiers in order to comply with the sequence rules. No claims were canceled, added or otherwise amended by this response. The claims

pending on March 15, 2007 were substantively identical to those pending on January 20, 2006. *See* Exhibit D.

Accordingly, Patentees are entitled to a period of patent term adjustment of **332 days** due to the failure by the Office to mail an action under 35 U.S.C. §132 not later than four months after the date of Applicants' reply under 37 CFR § 1.111 of January 20, 2006 (*i.e.,* by May 20, 2006). Because the Office failed to mail an action under 35 U.S.C. §132 until April 17, 2007, Patentees are entitled to a period of patent term adjustment beginning on the day after the date that is four months after the date a reply under 37 CFR § 1.111 was filed (*i.e.,* January 21, 2006) and ending on the date of mailing of an action under 35 U.S.C. §132 (*i.e.,* April 17, 2007) or **332 days**.

Accordingly, the total period of patent term adjustment under 37 CFR §§ 1.702(a) and 1.703(a) is 101 days of 14 Month Delay plus 332 days of 4 Month Delay for a total of **433 days**.

3. Issue Delay

Patentees are entitled to a period of patent term adjustment pursuant to 37 CFR §§ 1.702(a)(2) and 1.703(a)(4) ("Issue Delay"). Patentees disagree with the Office's calculation shown in Exhibit B that the Issue Delay is 0 days. Patentees respectfully submit that the correct Issue Delay is **194 days**. The relevant facts are as follows:

1. On June 29, 2009, the Applicants paid the issue fee.

2. On May 11, 2010, the Office issued the patent.

Because the Office did not issue the patent "not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied," 37 CFR § 1.702(a)(4) (*i.e.*, by October 29, 2009), the Patentee is entitled to a patent term adjustment equal to "[t]he number of days . . . in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirement were satisfied [*i.e.*, beginning on October 30, 2009] and ending on the date a patent was issued [*i.e.*, May 11, 2010]," or **194 days**. 37 CFR § 1.703(a)(6).

B. 3 Year Delay under 37 CFR §§ 1.702(b) and 1.703(b)

Patentees are entitled to a period of patent term adjustment pursuant to 37 CFR §§ 1.702(b) and 1.703(b) due to examination delay equal to the number of days in the period beginning on the day after the date that is three years after February 10, 2004, when the above-referenced application was filed under

35 U.S.C. §111(a) (*i.e.,* February 11, 2007) and ending on the date a patent is issued ("3-Year Delay"), which is May 11, 2010. Applicants agree with the Office's calculation shown in Exhibit B that the 3 Year Delay is 1,186 days, based on the actual issue date of May 11, 2010.

C. Exclusion of Overlapping Delay under 37 CFR § 1.703(f)

Patentees are not entitled to a period of patent term adjustment to the extent that the periods in 37 CFR § 1.702 (*i.e.,* the 14-Month Delay, the 4-Month Delay, and the Issue Delay) overlap the 3 Year Delay overlap pursuant to 37 CFR §1.703(f) ("Overlapping Delay"). Overlap occurs when the same day is counted as both kinds of delay. *See Wyeth v. Kappos,* 591 F.3d at 1369-70. Applicants disagree with the Office's calculation of Overlapping Delay of 0 days.

The period of 4 Month Delay ended on April 17, 2007, and the period of 3-Year Delay began February 11, 2007. Applicants submit that these periods overlap by 66 days.

The period of Issue Delay is entirely overlapped by the period of 3-Year Delay, thus the period of overlap also includes the entire period of Issue Delay, or 194 days.

To calculate the period of patent term adjustment, the total period of examination delay is thus to be reduced by the sum of these two periods of overlap, *i.e.,* **260 days**.

D. Exclusion of Applicant Delay under 37 CFR §§ 1.703(f) and 1.704

Patentees are not entitled to a period of patent term adjustment to the extent that they failed to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR §§ 1.703(f) and 1.704 ("Applicant Delay").

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 92 days with respect to the response filed by Patentees on January 20, 2006. The Applicant Delay is the number of days beginning on the day after the date that is three months after the date of mailing of the July 20, 2005 Office Action (*i.e.,* October 21, 2005) and ending on the date the reply was filed (*i.e.,* January 20, 2006), which is 92 days.

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 158 days with respect to the Response filed June 27, 2006. Patentees' response filed on January 20, 2006 to the Office Action mailed July 20, 2005 was deemed by the Office to be non-compliant. Patentees therefore incurred further Applicant Delay beginning on the day after the non-compliant reply was filed

(*i.e.*, January 21, 2006) and ending on the day that Patentees filed a compliant response to the Office Action mailed July 20, 2005 (*i.e.*, June 27, 2006), which is 158 days.

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 86 days with respect to the response filed by Patentees on March 15, 2007. The Applicant Delay is the number of days beginning on the day after the date that is three months after the date of mailing of the September 19, 2006 Office communication (*i.e.*, December 20, 2006) and ending on the day the reply was filed (*i.e.*, March 15, 2007), which is 86 days.

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 87 days with respect to the response filed by Patentees on October 12, 2007. The Applicant Delay is the number of days beginning on the day after the date that is three months after the date of mailing of the April 17, 2007 Office Action (*i.e.*, July 18, 2007) and ending on the day the reply was filed (*i.e.*, October 12, 2007), which is 87 days.

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 50 days with respect to the response filed by Patentees on May 28, 2008. The Applicant Delay is the number of days beginning on the day after the date that is three months after the date of mailing of the January 8, 2008 Office Action (*i.e.*, April 9, 2008) and ending on the day the reply was filed (*i.e.*, May 28, 2008), which is 50 days.

Patentees agree with the Office's calculation shown in Exhibit B that the Applicant Delay is 20 days with respect to the amendment filed by Patentees pursuant to 37 C.F.R. § 1.312 on May 1, 2009. The Applicant Delay is the number of days beginning on the day that the amendment was filed (*i.e.*, May 1, 2009) and ending on the mailing date of the Office response to the amendment (*i.e.*, May 20, 2009), which is 20 days.

Accordingly, the total period of Applicant Delay under 37 CFR §§ 1.703(f) and 1.704 is **493 days**.

E. Total Patent Term Adjustment

Pursuant to 37 CFR § 1.703(f), the total patent term adjustment is 101 days of 14-Month Delay, plus 332 days of 4-Month Delay, plus 194 days of Issue Delay, plus 1,186 days of 3 Year Delay, minus 260 days of Overlapping Delay, minus 493 days of Applicant Delay, for a total of **1,060 days**.

F. Conclusion

In view of the foregoing, it is respectfully requested that this Application for Patent Term Adjustment be favorably considered and that a corrected Determination of Patent Term Adjustment be issued to reflect a patent term adjustment of **1,060 days**.

Respectfully submitted,

Date: July 9, 2010

Anna D. DiGabriele Petti
Reg. No. 59,933

DECHERT LLP
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15790749.1.BUSINESS

Exhibit A

Copy of "Determination of Patent Term Adjustment under 35 U.S.C. § 154(b)"

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,934	05/11/2010	7713738	366929-018US (396515)	2105

37509 7590 04/21/2010

DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 794 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site http://pair.uspto.gov for additional applicants):

Bo Hansen, Copenhagen K, DENMARK;
Charlotte Albaek Thrue, Copenhagen K, DENMARK;
Majken Westergaard, Birkerod, DENMARK;
Kamille Dumong Petersen, Lejre, DENMARK;
Margit Wissenbach, Predensborg, DENMARK;

Exhibit B

Printout of PTA Calculation from PAIR

10/776,934	OLIGOMERIC COMPOUNDS FOR THE MODULATION OF SURVIVIN EXPRESSION	05-13-2010::18:06:54

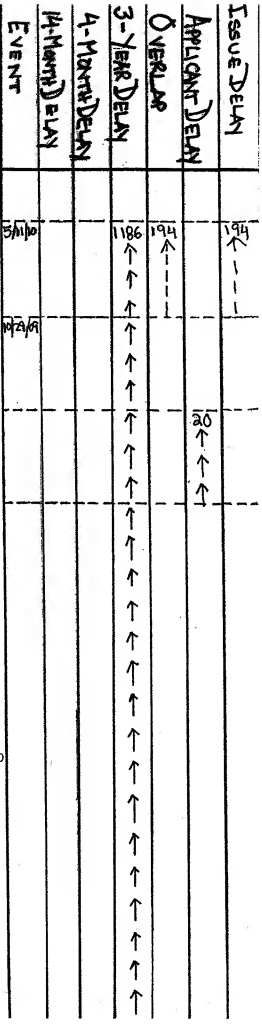
Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/776,934

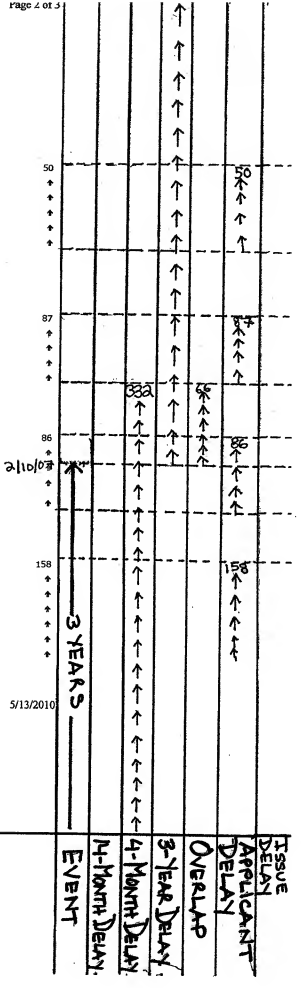
Filing or 371(c) Date:	02-10-2004	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	05-11-2010	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total PTA (days):	794
USPTO Adjustment(days):	-	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
05-11-2010	PTA 36 Months	1186	
05-11-2010	Patent Issue Date Used in PTA Calculation		
03-31-2010	Dispatch to FDC	↑	
03-31-2010	Email Notification	↑	
03-24-2010	Mail-Petition Decision - Dismissed	↑	
03-23-2010	Petition Decision - Dismissed	↑	
07-01-2009	Application Is Considered Ready for Issue	↑	
06-29-2009	Issue Fee Payment Verified	↑	
06-29-2009	Petition Entered	↑	
06-29-2009	Issue Fee Payment Received	↑	
05-20-2009	TC Return to Pubs	↑	
05-20-2009	Mail Response to 312 Amendment (PTO-271)	↑	
05-19-2009	Response to Amendment under Rule 312	↑	
05-07-2009	Pubs Case Remand to TC	↑	
05-08-2009	TC Return to Pubs	↑	
05-05-2009	Sequence Forwarded to Pubs on Tape	↑	
05-04-2009	Receipt into Pubs	↑	
05-01-2009	Amendment after Notice of Allowance (Rule 312)		20
05-01-2009	Mail Miscellaneous Communication to Applicant		
05-01-2009	Miscellaneous Communication to Applicant - No Action Count		
04-30-2009	Mail Examiner Interview Summary (PTOL - 413)		
04-27-2009	Examiner Interview Summary Record (PTOL - 413)		
04-17-2009	Mail Notice of Allowance		
03-23-2009	Information Disclosure Statement (IDS) Filed		
03-19-2009	Notice of Allowance Data Verification Completed		
03-19-2009	Case Docketed to Examiner in GAU		
03-19-2009	Document Verification		
03-10-2009	Date Forwarded to Examiner		
03-06-2009	Amendment after Final Rejection		
01-09-2009	Mail Final Rejection (PTOL - 326)		



01-05-2009	Final Rejection
05-28-2008	Information Disclosure Statement considered
10-21-2008	Date Forwarded to Examiner
09-29-2008	Response after Non-Final Action
09-19-2008	Mail Miscellaneous Communication to Applicant
09-18-2008	Miscellaneous Action with SSP
05-28-2008	Miscellaneous Incoming Letter
07-16-2008	Date Forwarded to Examiner
05-28-2008	Response after Non-Final Action
05-28-2008	Request for Extension of Time - Granted
05-28-2008	Information Disclosure Statement (IDS) Filed
03-13-2008	Change in Power of Attorney (May Include Associate POA)
03-12-2008	Correspondence Address Change
01-08-2008	Mail Non-Final Rejection
01-07-2008	Non-Final Rejection
10-24-2007	Correspondence Address Change
10-12-2007	New or Additional Drawing Filed
10-24-2007	Date Forwarded to Examiner
10-12-2007	Response after Non-Final Action
10-12-2007	Request for Extension of Time - Granted
07-14-2004	Information Disclosure Statement considered
07-14-2004	Information Disclosure Statement (IDS) Filed
04-17-2007	Mail Non-Final Rejection
04-16-2007	Non-Final Rejection
01-23-2007	Information Disclosure Statement considered
04-05-2007	Date Forwarded to Examiner
03-15-2007	Response to a Letter to Comply with the Sequence Rules
03-15-2007	Request for Extension of Time - Granted
01-23-2007	Information Disclosure Statement (IDS) Filed
01-23-2007	Information Disclosure Statement (IDS) Filed
09-19-2006	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)
09-15-2006	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted
07-05-2006	Date Forwarded to Examiner
06-27-2006	Response to Election / Restriction Filed
06-27-2006	Request for Extension of Time - Granted
04-20-2006	Mail Notice of Informal or Non-Responsive Amendment
08-29-2005	Information Disclosure Statement considered
08-29-2005	Information Disclosure Statement considered
04-04-2006	Case Docketed to Examiner in GAU
02-02-2006	Date Forwarded to Examiner



01-20-2006	Informal or Non-Responsive Amendment after Examiner Action		↑
01-20-2006	Response to Election / Restriction Filed		92
01-20-2006	Request for Extension of Time - Granted		↑
08-29-2005	Information Disclosure Statement (IDS) Filed		↑
08-29-2005	Information Disclosure Statement (IDS) Filed		↑
08-29-2005	Reference capture on IDS		↑
08-29-2005	Information Disclosure Statement (IDS) Filed		↑
08-29-2005	Information Disclosure Statement (IDS) Filed		↑
07-20-2005	Mail Restriction Requirement	101	
07-19-2005	Requirement for Restriction / Election	↑	
05-11-2005	IFW TSS Processing by Tech Center Complete	↑	
05-11-2005	Case Docketed to Examiner in GAU	↑	
07-14-2004	Preliminary Amendment	↑	4/10/05
02-03-2005	Information Disclosure Statement (IDS) Filed	↑	
02-03-2005	Information Disclosure Statement (IDS) Filed	↑	
12-16-2004	Reference capture on IDS	↑	
12-16-2004	Information Disclosure Statement (IDS) Filed	↑	
12-16-2004	Information Disclosure Statement (IDS) Filed	↑	
09-20-2004	Application Return from OIPE	↑	
09-20-2004	Application Return TO OIPE	↑	
09-20-2004	Application Return from OIPE	↑	
09-20-2004	Application Is Now Complete	↑	
09-20-2004	Application Return TO OIPE	↑	
09-17-2004	Application Dispatched from OIPE	↑	
09-20-2004	Application Is Now Complete	↑	
07-14-2004	Payment of additional filing fee/Preexam	↑	
02-10-2004	Claim Preliminary Amendment	↑	
07-14-2004	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	↑	
07-14-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	
07-26-2004	CRF Is Good Technically / Entered into Database	↑	
05-14-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
03-30-2004	Cleared by L&R (LARS)	↑	
03-18-2004	Referred to Level 2 (LARS) by OIPE CSR	↑	
03-02-2004	IFW Scan & PACR Auto Security Review	↑	
02-10-2004	Initial Exam Team nn	↑	

3 YEARS

14 MONTHS

Close Window

EVENT	14-Month Delay	4-Month Delay	3-Year Delay	Overlap	Applicant Delay	Issue Delay
TOTALS	101	332	1186	260	493	194

NET = 101 + 332 + 1,186 + 194 − 260 − 493 = 1,060 DAYS

Exhibit C

Summary of Office Action mailed April 17, 2007
(first 2 pages only)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,934	02/10/2004	Bo Hansen	58610 (71432)	2105

21874 7590 04/17/2007
EDWARDS ANGELL PALMER & DODGE LLP
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BOSTON, MA 02205

EXAMINER	
CHONG, KIMBERLY	
ART UNIT	PAPER NUMBER
1635	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/776,934	HANSEN ET AL.
	Examiner	Art Unit
	Kimberly Chong	1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 January 2006*.

2a)☐ This action is FINAL. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3,5-16,19-21,23-38,45,46,48-52,120-124 and 153-169* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3,5-16,19-21,23-38,45,46,48-52,120-124 and 153-169* is/are rejected.

7)☒ Claim(s) *23-38,48 and 50* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 February 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/14/04, 12/15/04*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *2/3/05, 8/29/05, 1/23/07.* IDS

Exhibit D

Copy of claims pending on January 20, 2006 and on March 15, 2007

RECEIVED
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Dated: January 20, 2006 Signature: (Jonathan M. Sparks, Ph.D.)

Docket No.: 58610 (71432) (PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bo Hansen et al.

Application No.: 10/776,934

Confirmation No.: 2105

Filed: February 10, 2004

Art Unit: 1635

For: OLIGOMERIC COMPOUNDS FOR THE MODULATION SURVIVIN EXPRESSION

Examiner: Bowman, Amy Hudson

PRELIMINARY AMENDMENT AND RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Prior to examination of the above-identified application, please amend the application as follows.

Amendments to the claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

Response to Restriction Requirement begins on page 12 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in this application:

Listing of Claims

1. (Canceled)

2. (Canceled)

3. (Currently Amended) The compound according to claim 1 53 consisting of from [[8]]12-40 nucleotides.

4. (Canceled)

5. (Currently Amended) The compound according to claim [[4]] 3 consisting of from 12-20 nucleotides.

6. (Original) The compound according to claim 5 consisting of 12, 13, 14, 15, 16, 17, 18, 19 or 20 nucleotides.

7. (Original) The compound according to claim 6 consisting of 14, 15, 16, 17 or 18 nucleotides.

8. (Original) The compound according to claim 5 consisting of from 15-17 nucleotides.

9. (Original) The compound according to claim 8 consisting of 15, 16 or 17 nucleotides.

10. (Original) The compound according to claim 8 consisting of 15 nucleotides.

11. (Original) The compound according to claim 9 consisting of 16 nucleotides.

12. (Original) The compound according to claim 9 consisting of 17 nucleotides.

13. (Currently Amended) The compound according claim [[1]]153, comprising a subsequence of at least 10 nucleotides or nucleotide analogues.

14. (Currently Amended) The compound according to claim [[1]]153, comprising a subsequence of at least 12 nucleotides or nucleotide analogues.

15. (Currently Amended) The compound according to claim [[1]]153, comprising a subsequence of at least 14 nucleotides or nucleotide analogues.

16. (Currently Amended) The compound according to claim [[1]]153, comprising a subsequence of 10, 11, 12, 13 14, 15 or 16 nucleotides or nucleotide analogues.

17. (Cancel)

18. (Cancel)

19. (Currently Amended) The compound according to claim ~~18~~160, wherein said linkage is a phosphate group.

20. (Currently Amended) The compound according to claim ~~17~~ 160, wherein said linkage is phosphorothioate group.

21. (Currently Amended) The compound according to claim 20 160, wherein all nucleotides comprise a phosphorothioate group.

22. (Cancel).

23. (Currently Amended) The compound according to claim ~~22~~ 153 comprising of from 1-50 nucleotide analogues.

24. (Original) The compound according to claim 23 comprising of from 2-45 nucleotide analogues.

25. (Original) The compound according to claim 24 comprising of from 3-40 nucleotide analogues.

26. (Original) The compound according to claim 25 comprising of from 4-35 nucleotide analogues.

27. (Original) The compound according to claim 26 comprising of from 5-30 nucleotide analogues.

28. (Original) The compound according to claim 27 comprising of from 6-25 nucleotide analogues.

29. (Original) The compound according to claim 28 comprising of from 6-20 nucleotide analogues.

30. (Original) The compound according to claim 29 comprising of from 6-12 nucleotide analogues.

31. (Original) The compound according to claim 30 comprising of from 8-12 nucleotide analogues.

32. (Original) The compound according to claim 30 comprising 6, 7, 8, 9, 10, 11 or 12 nucleotide analogues.

33. (Original) The compound according to claim 31 comprising of from 6-10 nucleotide analogues.

34. (Original) The compound according to claim 33 comprising 6, 7, 8, 9 or 10 nucleotide analogues.

35. (Original) The compound according to claim 34 comprising 7, 8 or 9 nucleotide analogues.

36. (Original) The compound according to claim 35 comprising 8 nucleotide analogues.

37. (Currently Amended) The compound according to any of claims ~~2223~~-36, wherein all nucleotides are replaced by the corresponding nucleotide analogues.

38. (Currently Amended) The compound according to any of claims ~~2223~~-36 comprising a nucleoside located at the 3' end.

39.-44 (Cancel)

45. (Currently Amended) The compound according to claim [[44]] 153, wherein said nucleotides and/or nucleotide analogues are linked to each other by means of a phosphate group.

46. (Currently Amended) The compound according to claim [[44]] 153, wherein said nucleotides and/or nucleotide analogues are linked to each other by means of a phosphorothioate group.

47. (Cancel)

48. (Currently Amended) The compound according ~~to any of claims 44-47~~ claim 153, wherein said subsequence comprises a stretch of 2-6 LNAs ~~as defined in any of claims 39-43~~ followed by a stretch of 4-12 nucleotides, which is followed by a stretch of 2-6 LNAs ~~as defined in any of claims 39-43~~.

49. (Currently Amended) The compound according to claim 48, wherein said subsequence comprises a stretch of 4 LNAs ~~as defined in any of claims 39-43~~ followed by a stretch of 8 nucleotides, which is followed by a stretch of 4 LNAs ~~as defined in any of claims 39-43~~.

50. (Currently Amended) The compound according to claim ~~47~~ 153, wherein said subsequence comprises a stretch of 2-6 LNAs ~~as defined in any of claims~~ 39-43 followed by a stretch of 4-12 nucleotides, which is followed by a stretch of 2-5 LNAs ~~as defined in any of claims~~ 39-43, which is followed by a single nucleotide.

51. (Currently Amended) The compound according to claim 50, wherein said subsequence comprises a stretch of 4 LNAs ~~as defined in any of claims~~ 39-43 followed by a stretch of 8 nucleotides, which is followed by a stretch of 3 LNAs as defined ~~in any of claims 39-43~~, which is followed by a single nucleotide.

52. (Previously Presented) The compound according to claim 51, wherein said single nucleoside is located at the 3' end.

53. – 119 (Cancel)

120. (Currently Amended) A conjugate comprising the compound according to claim [[1]] 153 and at least one non-nucleotide or non-polynucleotide moiety covalently attached to said compound.

121. (Currently Amended) A pharmaceutical composition comprising a compound as defined in claim [[1]] 153 or a conjugate as defined in claim 120, and a pharmaceutically acceptable diluent, carrier or adjuvant.

122. (Previously Presented) The pharmaceutical composition according to claim 121 further comprising at least one chemotherapeutic agent.

123. (Previously Presented) The pharmaceutical composition according to claim 122, wherein said chemotherapeutic compound is selected from the group consisting of adrenocorticosteroids, such as prednisone, dexamethasone or decadron; altretamine (hexalen, hexamethylmelamine (HMM)); amifostine (ethyol); aminoglutethimide (cytadren); amsacrine (M-AMSA); anastrozole (arimidex); androgens, such as testosterone; asparaginase (elspar); bacillus calmette-gurin; bicalutamide (casodex); bleomycin (blenoxane); busulfan (myleran); carboplatin (paraplatin); carmustine (BCNU, BiCNU); chlorambucil (leukeran); chlorodeoxyadenosine (2-CDA, cladribine, leustatin); cisplatin (platinol); cytosine arabinoside (cytarabine); dacarbazine (DTIC); dactinomycin (actinomycin-D, cosmegen); daunorubicin (cerubidine); docetaxel (taxotere); doxorubicin (adriomycin); epirubicin; estramustine (emcyt); estrogens, such as diethylstilbestrol (DES); etopside (VP-16, VePesid, etopophos); fludarabine (fludara); flutamide (eulexin); 5-FUDR (floxuridine); 5-fluorouracil (5-FU); gemcitabine (gemzar); goserelin (zodalex); herceptin (trastuzumab); hydroxyurea (hydrea); idarubicin (idamycin); ifosfamide; IL-2 (proleukin, aldesleukin); interferon alpha (intron A, roferon A); irinotecan (camptosar); leuprolide (lupron); levamisole (ergamisole); lomustine (CCNU); mechlorathamine (mustargen, nitrogen mustard); melphalan (alkeran); mercaptopurine (purinethol, 6-MP); methotrexate (moxate); mitomycin-C (mutamucin); mitoxantrone (novantrone); octreotide (sandostatin); pentostatin (2-deoxycoformycin, nipent); plicamycin (mithramycin, mithracin); procarbazine (matulane); streptozocin; tamoxifin (nolvadex); taxol (paclitaxel); teniposide (vumon, VM-26); thiotepa; topotecan (hycamtin); tretinoin (vesanoid, all-trans retinoic acid); vinblastine (valban); vincristine (oncovin) and vinorelbine (navelbine).

124. (Currently Amended) A compound as defined in claim [[1]] 153 or a conjugate as defined in claim 120 for use as a medicament.

125-152 (Cancel)

153. (New) A compound consisting of 12-50 nucleotides and/or nucleotide analogues, wherein said compound comprises a subsequence of at least 8 nucleotides or nucleotide analogues, said subsequence being located within the sequence ctcaatccatggcagc and wherein at least one of said nucleotides in said sequence has been replaced by a corresponding nucleotide analogue.

154. (New) The compound of claim 153, wherein said corresponding nucleotide is selected from the group consisting of LNA sugar, 2'-O-methyl DNA sugar, 2'-fluoro DNA sugar, 2'-MOE DNA sugar, 2'-O-(3-amino)propyl and 2'-O-(3-hydroxy)propyl.

155. (New) The compound of claim 154, wherein said corresponding nucleotide is LNA.

156. (New) The compound of claim 155, wherein said LNA is selected from the group consisting of thio-LNA, amino-LNA and oxy-LNA.

157. (New) The compound of claim 156, wherein said LNA is beta-D-oxy-LNA.

158. (New) The compound of claim 153, wherein said compound comprises a subsequence of at least 12 nucleotides or nucleotide analogous.

159. (New) The compound of claim 153, wherein said compound consists of 12-20 nucleotides and/or nucleotide analogues.

160. (New) The compound of claim 153, wherein said compound comprises the sequence CTCAatccatggCAGC or CTCAatccatggCAGc, wherein uppercase letters denote a beta-D-

oxy-LNA and lowercase letters denote a DNA sugar, and wherein said nucleotides and/or nucleotide analogues are linked together by a phosphate group, a phosphorothioate group, or a combination thereof.

161. (New) The compound of claim 160, wherein said compound comprises the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sC$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

162. (New) The compound of claim 161, wherein said compound consists of the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sC$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

163. (New) The compound of claim 160, wherein said compound comprises the sequence $C_oT_oC_oA_oa_st_sc_sc_sa_st_sg_sg_sC_oA_oG_oC$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage and the subscript "o" denotes a phosphate linkage.

164. (New) The compound of claim 163, wherein said compound consists of the sequence $C_oT_oC_oA_oa_st_sc_sc_sa_st_sg_sg_sC_oA_oG_oC$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage and the subscript "o" denotes a phosphate linkage.

165. (New) The compound of claim 160, wherein said compound comprises the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sC$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

166. (New) The compound of claim 165, wherein said compound consists of the sequence

$C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sc$, wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

167. (New) The compound of claim 153, wherein said compound comprises the sequence $c_st_sc_sa_sa_st_sc_sc_sa_st_sg_sg_sc_sa_sg_sc$, wherein lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

168. (New) The compound of claim 167, wherein said compound consists of the sequence $c_st_sc_sa_sa_st_sc_sc_sa_st_sg_sg_sc_sa_sg_sc$, wherein lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

169. (New) The compound of any one of claims 160-168, wherein the cytosine (C) is 5' methyl cytosine (5'-MeC).

USSN:10/776,934 Group Art Unit:1635

REMARKS

Claims 1-152 were pending in the application. Claims 1, 2, 4, 17, 18, 22, 39-44, 47, 53-119, and 125-152 have been canceled without prejudice. Claims 3, 5, 13-16, 19, 20, 21, 23, 37, 38, 45-46, 48-51, 120 and 121 have been amended, and new claims 153-169 have been added. Accordingly, after the amendments presented herein have been entered, claims 3, 5-16, 19-21, 23-38, 45-46, 48-52 and 120-124, 153-169 will remain pending.

Support for the new claims can be found throughout the specification and in the claims as originally filed. Specifically, support for the amendments to the claims and for the new claims can be found in Table 1 (SEQ ID NOs:660-663).

No new matter has been added. Any cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

Response to Restriction Requirement

In response to the restriction requirement set forth in the Office Action mailed July 20, 2005, Applicants hereby elect Group I (Claims 1-87 and 120-124) for continued examination, without traverse.

The Examiner has further required the election of a single species if Group I is chosen for prosecution on the merits. Applicants hereby elect SEQ ID NO: 661, *with traverse*. Applicants traverse requirement for the election of a single species.

Applicants believe that the requirement for the election of a single species for continued prosecution is improper. Claim 153 is directed to a genus of compounds derived from the compounds set forth as SEQ ID NOs:130 and 660-663. Accordingly, claim 153 is generic to the species set forth as SEQ ID NO:130 and 660-663.

Applicants believe that a search of a single sequence, i.e., SEQ ID NO:661 will be coextensive with a search of the genus set forth in claim 153. The primary sequence of SEQ ID NO:661, i.e., CTCAATCCATGGCAGC, is the same as the primary sequence of the molecules set forth as SEQ ID NOs:130, 660 and 662-663. The molecules set forth as SEQ ID NO:130 and 660-663 differ only by the presence and number of nucleotide analogs and the type of linkage used to attach the nucleotides and/or nucleotide analogs to the neighboring nucleotide and/or nucleotide analog. Accordingly, Applicants believe that a search of the genus set forth in claim 153 will not be burdensome on the Examiner.

Further, the claimed compounds are related not only by structure as described above, but also by function. Each of the identified compounds is designed for use as an antagonist knockdown Survivin levels in cells. In fact, SEQ ID NO:660 has been shown to downregulate Survivin levels by 77% (see Table 1).

Based on the structural and functional similarities of the compounds represented in the amended claims, Applicants respectfully request that the genus of compounds represented in claim 153 be used for prosecution on the merits.

However, if the Examiner maintains the requirement for restriction, Applicants respectfully submit that they have provided a generic claim, i.e., claim 153, and therefore, respectfully request that the Examiner reconsider and withdraw the requirement for the election of a single species for prosecution on the merits. Applicants respectfully submit that an election of a single species for search purposes under 35 U.S.C. 121 is more appropriate than the election of a single species for prosecution on the merits. For search purposes Applicants request that the Examiner use SEQ ID NO:661. Applicants understand that the claims will be restricted to this species if no generic claims is finally held allowable. Further, Applicants understand that upon the allowance of a generic claim, consideration will be given to the additional species as set forth in 37 C.F.R. 1.141 *et seq*.

Moreover, Applicants reserve the right to pursue claims directed to canceled or restricted subject matter in this or separate applications.

CONCLUSION

Applicant believes that no fee is due in connection with this amendment. However, if a fee is due, please charge any fees required in connection with the papers transmitted herewith to Deposit Account No. 04-1105.

In view of the above amendment, Applicants believe that the pending application is in condition for allowance. If a telephonic conversation would be helpful, the Examiner is urged to contact the undersigned.

Dated: January 20, 2005

Respectfully submitted,

By _____
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Docket No.: 58610 (71432)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bo Hansen et al.

Application No.: 10/776,934 Confirmation No.: 2105

Filed: February 10, 2004 Art Unit: 1635

For: OLIGOMERIC COMPOUNDS FOR THE MODULATION SURVIVIN EXPRESSION Examiner: Bowman, Amy Hudson

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Notice mailed 9/19/2006. Please amend the application as set forth below.

Amendments to the claims begin on page 2 of this paper.

Remarks begin on page 11 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in this application:

Listing of Claims

1. (Canceled)

2. (Canceled)

3. (Previously Presented) The compound according to claim 153 consisting of from 12-40 nucleotides.

4. (Canceled)

5. (Previously Presented) The compound according to claim 3 consisting of from 12-20 nucleotides.

6. (Original) The compound according to claim 5 consisting of 12, 13, 14, 15, 16, 17, 18, 19 or 20 nucleotides.

7. (Original) The compound according to claim 6 consisting of 14, 15, 16, 17 or 18 nucleotides.

8. (Original) The compound according to claim 5 consisting of from 15-17 nucleotides.

9. (Original) The compound according to claim 8 consisting of 15, 16 or 17 nucleotides.

10. (Original) The compound according to claim 8 consisting of 15 nucleotides.

11. (Original) The compound according to claim 9 consisting of 16 nucleotides.

12. (Original) The compound according to claim 9 consisting of 17 nucleotides.

13. (Previously Presented) The compound according claim 153, comprising a subsequence of at least 10 nucleotides or nucleotide analogues.

14. (Previously Presented) The compound according to claim 153, comprising a subsequence of at least 12 nucleotides or nucleotide analogues.

15. (Previously Presented) The compound according to claim 153, comprising a subsequence of at least 14 nucleotides or nucleotide analogues.

16. (Previously Presented) The compound according to claim 153, comprising a subsequence of 10, 11, 12, 13 14, 15 or 16 nucleotides or nucleotide analogues.

17. (Cancel)

18. (Cancel)

19. (Previously Presented) The compound according to claim 160, wherein said linkage is a phosphate group.

20. (Previously Presented) The compound according to claim 160, wherein said linkage is phosphorothioate group.

21. (Previously Presented) The compound according to claim 160, wherein all nucleotides comprise a phosphorothioate group.

22. (Cancel)

23. (Previously Presented) The compound according to claim 153 comprising of from 1-50 nucleotide analogues.

24. (Original) The compound according to claim 23 comprising of from 2-45 nucleotide analogues.

25. (Original) The compound according to claim 24 comprising of from 3-40 nucleotide analogues.

26. (Original) The compound according to claim 25 comprising of from 4-35 nucleotide analogues.

27. (Original) The compound according to claim 26 comprising of from 5-30 nucleotide analogues.

28. (Original) The compound according to claim 27 comprising of from 6-25 nucleotide analogues.

29. (Original) The compound according to claim 28 comprising of from 6-20 nucleotide analogues.

30. (Original) The compound according to claim 29 comprising of from 6-12 nucleotide analogues.

31. (Original) The compound according to claim 30 comprising of from 8-12 nucleotide analogues.

32. (Original) The compound according to claim 30 comprising 6, 7, 8, 9, 10, 11 or 12 nucleotide analogues.

33. (Original) The compound according to claim 31 comprising of from 6-10 nucleotide analogues.

34. (Original) The compound according to claim 33 comprising 6, 7, 8, 9 or 10 nucleotide analogues.

35. (Original) The compound according to claim 34 comprising 7, 8 or 9 nucleotide analogues.

36. (Original) The compound according to claim 35 comprising 8 nucleotide analogues.

37. (Previously Presented) The compound according to any of claims 23-36, wherein all nucleotides are replaced by the corresponding nucleotide analogues.

38. (Previously Presented) The compound according to any of claims 23-36 comprising a nucleoside located at the 3' end.

39.-44 (Cancel)

45. (Previously Presented) The compound according to claim 153, wherein said nucleotides and/or nucleotide analogues are linked to each other by means of a phosphate group.

46. (Previously Presented) The compound according to claim 153, wherein said nucleotides and/or nucleotide analogues are linked to each other by means of a phosphorothioate group.

47. (Cancel)

48. (Previously Presented) The compound according claim 153, wherein said subsequence comprises a stretch of 2-6 LNAs followed by a stretch of 4-12 nucleotides, which is followed by a stretch of 2-6 LNAs.

49. (Previously Presented) The compound according to claim 48, wherein said subsequence comprises a stretch of 4 LNAs followed by a stretch of 8 nucleotides, which is followed by a stretch of 4 LNAs.

50. (Previously Presented) The compound according to claim 153, wherein said subsequence comprises a stretch of 2-6 LNAs followed by a stretch of 4-12 nucleotides, which is followed by a stretch of 2-5 LNAs, which is followed by a single nucleotide.

51. (Previously Presented) The compound according to claim 50, wherein said subsequence comprises a stretch of 4 LNAs followed by a stretch of 8 nucleotides, which is followed by a stretch of 3 LNAs as defined, which is followed by a single nucleotide.

52. (Previously Presented) The compound according to claim 51, wherein said single nucleoside is located at the 3' end.

53. – 119 (Cancel)

120. (Previously Presented) A conjugate comprising the compound according to claim 153 and at least one non-nucleotide or non-polynucleotide moiety covalently attached to said compound.

121. (Previously Presented) A pharmaceutical composition comprising a compound as defined in claim 153 or a conjugate as defined in claim 120, and a pharmaceutically acceptable diluent, carrier or adjuvant.

122. (Previously Presented) The pharmaceutical composition according to claim 121 further comprising at least one chemotherapeutic agent.

123. (Previously Presented) The pharmaceutical composition according to claim 122, wherein said chemotherapeutic compound is selected from the group consisting of adrenocorticosteroids, such as prednisone, dexamethasone or decadron; altretamine (hexalen, hexamethylmelamine (HMM)); amifostine (ethyol); aminoglutethimide (cytadren); amsacrine (M-AMSA); anastrozole (arimidex); androgens, such as testosterone; asparaginase (elspar); bacillus calmette-gurin; bicalutamide (casodex); bleomycin (blenoxane); busulfan (myleran); carboplatin (paraplatin); carmustine (BCNU, BiCNU); chlorambucil (leukeran); chlorodeoxyadenosine (2-CDA, cladribine, leustatin); cisplatin (platinol); cytosine arabinoside (cytarabine); dacarbazine (DTIC); dactinomycin (actinomycin-D, cosmegen); daunorubicin (cerubidine); docetaxel (taxotere); doxorubicin (adriomycin); epirubicin; estramustine (emcyt); estrogens, such as diethylstilbestrol (DES); etopside (VP-16, VePesid, etopophos); fludarabine (fludara); flutamide (eulexin); 5-FUDR (floxuridine); 5-fluorouracil (5-FU); gemcitabine (gemzar); goserelin (zodalex); herceptin (trastuzumab); hydroxyurea (hydrea); idarubicin (idamycin); ifosfamide; IL-2 (proleukin, aldesleukin); interferon alpha (intron A, roferon A); irinotecan (camptosar); leuprolide (lupron); levamisole (ergamisole); lomustine (CCNU); mechlorathamine (mustargen, nitrogen mustard); melphalan (alkeran); mercaptopurine (purinethol, 6-MP); methotrexate (mexate); mitomycin-C (mutamucin); mitoxantrone (novantrone); octreotide (sandostatin); pentostatin (2-deoxycoformycin, nipent); plicamycin (mithramycin, mithracin); prorocarbazine (matulane); streptozocin; tamoxifin (nolvadex); taxol (paclitaxel); teniposide (vumon, VM-26); thiotepa;

topotecan (hycamtin); tretinoin (vesanoid, all-trans retinoic acid); vinblastine (valban); vincristine (oncovin) and vinorelbine (navelbine).

124. (Previously Presented) A compound as defined in claim 153 or a conjugate as defined in claim 120 for use as a medicament.

125-152 (Cancel)

153. (Currently Amended) A compound consisting of 12-50 nucleotides and/or nucleotide analogues, wherein said compound comprises a subsequence of at least 8 nucleotides or nucleotide analogues, said subsequence being located within the sequence ctcaatccatggcagc (SEQ ID NO: 130) and wherein at least one of said nucleotides in said sequence has been replaced by a corresponding nucleotide analogue.

154. (Previously Presented) The compound of claim 153, wherein said corresponding nucleotide is selected from the group consisting of LNA sugar, 2'-O-methyl DNA sugar, 2'-fluoro DNA sugar, 2'-MOE DNA sugar, 2'-O-(3-amino)propyl and 2'-O-(3-hydroxy)propyl.

155. (Previously Presented) The compound of claim 154, wherein said corresponding nucleotide is LNA.

156. (Previously Presented) The compound of claim 155, wherein said LNA is selected from the group consisting of thio-LNA, amino-LNA and oxy-LNA.

157. (Previously Presented) The compound of claim 156, wherein said LNA is beta-D-oxy-LNA.

158. (Previously Presented) The compound of claim 153, wherein said compound comprises a subsequence of at least 12 nucleotides or nucleotide analogous.

159. (Previously Presented) The compound of claim 153, wherein said compound consists of 12-20 nucleotides and/or nucleotide analogues.

160. (Currently Amended) The compound of claim 153, wherein said compound comprises the sequence CTCAatccatggCAGC (SEQ ID NO: 130) or CTCAatccatggCAGc (SEQ ID NO: 130), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein said nucleotides and/or nucleotide analogues are linked together by a phosphate group, a phosphorothioate group, or a combination thereof.

161. (Currently Amended) The compound of claim 160, wherein said compound comprises the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sC$ (SEQ ID NO:664), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

162. (Currently Amended) The compound of claim 161, wherein said compound consists of the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sC$ (SEQ ID NO:664), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

163. (Currently Amended) The compound of claim 160, wherein said compound comprises the sequence $C_oT_oC_oA_oa_st_sc_sc_sa_st_sg_sg_sC_oA_oG_oC$(SEQ ID NO:662), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage and the subscript "o" denotes a phosphate linkage.

164. (Currently Amended) The compound of claim 163, wherein said compound consists of the sequence $C_oT_oC_oA_oa_st_sc_sc_sa_st_sg_sg_sC_oA_oG_oC$ (SEQ ID NO:662), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage and the subscript "o" denotes a phosphate linkage.

165. (Currently Amended) The compound of claim 160, wherein said compound comprises the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sc$ (SEQ ID NO:661), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

166. (Currently Amended) The compound of claim 165, wherein said compound consists of the sequence $C_sT_sC_sA_sa_st_sc_sc_sa_st_sg_sg_sC_sA_sG_sc$ (SEQ ID NO:661), wherein uppercase letters denote a beta-D-oxy-LNA and lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

167. (Currently Amended) The compound of claim 153, wherein said compound comprises the sequence $c_st_sc_sa_sa_st_sc_sc_sa_st_sg_sg_sc_sa_sg_sc$ (SEQ ID NO:663), wherein lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

168. (Currently Amended) The compound of claim 167, wherein said compound consists of the sequence $c_st_sc_sa_sa_st_sc_sc_sa_st_sg_sg_sc_sa_sg_sc$ (SEQ ID NO:663), wherein lowercase letters denote a DNA sugar, and wherein the subscript "s" denotes a phosphorothioate linkage.

169. (Previously Presented) The compound of any one of claims 160-168, wherein the cytosine (C) is 5' methyl cytosine (5'-MeC).

REMARKS

Claims 3, 5-16, 19-21, 23-38, 45-46, 48-52 and 120-124, 153-169 were pending in the application. Claims 153 and 160-168 have been amended to add sequence identifiers. Accordingly, after the amendments presented herein have been entered, claims 3, 5-16, 19-21, 23-38, 45-46, 48-52 and 120-124, 153-169 will remain pending.

The Examiner issued a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino acid Sequence Disclosures and indicated that claims 153 and 160-168 did not contain sequence identifiers. Applicants have amended the claims to contain the appropriate sequence identifiers. The Examiner additionally indicated that a new sequence listing, statement and amendment directing the entry of the listing into the specification were required. Applicants traverse. The sequence identifiers added to the claims were for sequences previously set forth and assigned sequence identifiers in the specification. Accordingly, there is no new sequence identifiers set forth in the instant amendments thereby obviating the need for a new sequence listing.

No new matter has been added. Any cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

Conclusion

Applicants submit herewith a request for the appropriate extension of time. Applicant believes that no further fees are due in connection with this amendment. However, if a fee is due, please charge any fees required in connection with the papers transmitted herewith to Deposit Account No. 04-1105.

In view of the above amendment, Applicants believe that the pending application is in condition for allowance. If a telephonic conversation would be helpful, the Examiner is urged to contact the undersigned.

Dated: March 15, 2007

Respectfully submitted,

By _____

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